

1 RICK A YARNALL
Chapter 13 Bankruptcy Trustee
2 Daniel Riggs, Esq.
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6 UNITED STATES BANKRUPTCY COURT

7 DISTRICT OF NEVADA

8 In re:

9 IRENE M. SCHWARTZ-TALLARD

10 Debtor.

BK-S-24-14985-mkn
Chapter 13

Hearing Date: January 16, 2025
Hearing Time: 2:00 p.m.

11 **TRUSTEE'S MOTION TO DISMISS CASE**
PURSUANT TO 11 U.S.C. § 1307(c)(1), (3) AND (4)
12

13 COMES NOW Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, by and through his
14 counsel of record, Daniel Riggs, Esq., and hereby moves this Honorable Court for an Order
15 dismissing the instant case for unreasonable delay by the debtor that is prejudicial to creditors,
16 failure to timely file a plan and failure to commence payments pursuant to 11 U.S.C § 1307(c)(1),
17 (3) and (4).

18 11 U.S.C. § 1321 and Fed. R. Bankr. Proc. 3015(b) requires chapter 13 debtors to file a plan
19 within 14 days of filing their petition. Section 1307(c)(3) states that a case may be dismissed for
20 failure to timely file a plan. The Debtor filed the instant case on September 26, 2024. See Docket
21 No. 1. The Debtor was required to file the plan by October 10, 2024. The Debtor still has not filed
22 the plan. Therefore, Trustee requests that the instant case be dismissed.

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1 Further, Section § 1326(a)(7) requires debtors to commence making plan payments no later
2 than 30 days after the filing of the plan or the order for relief, which is earlier. Section 1307(c)(4)
3 states that a case may be dismissed for failure to commence making timely payments under § 1326.
4 In this case, the Debtor should have commenced making payments on October 26, 2024. The Debtor
5 has yet to make a payment. As such, Trustee requests that the instant case be dismissed.

6 Finally, 11 U.S.C. § 1307(c)(1) states that a case may be dismissed for unreasonable delay by
7 the debtor that is prejudicial to creditors. The Debtor's delay in filing a plan, failure to set a
8 confirmation hearing and failure to commence plan payments constitutes an unreasonable delay that
9 is prejudicial to the creditors. The Debtor's creditors are harmed by the delay because the automatic
10 stay is in effect while the Debtor has done nothing to move the case forward. Dismissal is also
11 warranted for Debtor's unreasonable delay in prosecuting this case.

12 WHEREFORE, the Trustee respectfully requests that this Honorable Court issue an
13 Order dismissing the instant case pursuant to § 1307(c)(1), (3) and (4).

14 DATED this 5th day of December, 2024.

15 Submitted by:

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17 Daniel Riggs, Esq.
18 Nevada Bar No. 12270
19 701 Bridger Ave., Suite 820
20 Las Vegas, NV 89101
21 Attorney for RICK A. YARNALL,
22 Chapter 13 Bankruptcy Trustee
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CERTIFICATE OF MAILING

I hereby certify that I am an employee of RICK A. YARNALL, Chapter 13 Trustee; that I am over the age of 18 years; and that on the 5th day of December, 2024, I provided a copy of the **Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4) and Notice of Hearing** to each of the following by:

[X] a. ECF System:

- MICHAEL J. HARKER notices@harkerlawfirm.com, mharker@harkerlawfirm.com; r41501@notify.bestcase.com
- RICK A. YARNALL ecfmail@LasVegas13.com, ecfimport@lasvegas13.com

[X] b. United States mail, postage fully prepaid:

IRENE M. SCHWARTZ-TALLARD
17 CAPRINGTON ROAD
HENDERSON, NV 89052



Cindy Coons an Employee of
RICK A. YARNALL
CHAPTER 13 BANKRUPTCY TRUSTEE

[PROPOSED ORDER]

RICK A YARNALL
Chapter 13 Bankruptcy Trustee
Daniel Riggs, Esq.
Nevada Bar No. 12270
701 Bridger Ave., Ste 820
Las Vegas, NV 89101
(702) 853-4500
RAY13mail@lasvegas13.com

E-Filed: _____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

IRENE M. SCHWARTZ-TALLARD

Debtor.

BK-S-24-14985-mkn
Chapter 13

**ORDER ON TRUSTEE'S MOTION TO
DISMISS CASE PURSUANT TO 11 U.S.C. §
1307(c)(1), (3) AND (4)**

Hearing Date: January 16, 2025
Hearing Time: 2:00 p.m.

Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4) having come on for hearing in the above-entitled Court on January 16, 2025, at 2:00 p.m., with counsel appearing on behalf of Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, other appearances as noted on record, argument having been heard, and based upon the papers and pleadings on file herein, and good cause appearing:

1 IT IS HEREBY ORDERED that Trustee's Motion is GRANTED and the above captioned
2 bankruptcy proceeding is DISMISSED pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4);

3 IT IS SO ORDERED.

4 Submitted by:

6 Date: _____

7 _____
Daniel Riggs, Esq.
8 Attorney for Rick A. Yarnall,
Chapter 13 Bankruptcy Trustee
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1 In accordance with LR 9021, counsel submitting this document certifies that the order accurately
2 reflects the court's ruling and that (check one):

3 ☐ The court has waived the requirement set forth in LR 9021(b)(1).

4 ☐ No party appeared at the hearing or filed an objection to the motion.

5 ☐ I have delivered a copy of this proposed order to all counsel who appeared at the
6 hearing, and any unrepresented parties who appeared at the hearing, and each has
7 approved or disapproved the order, or failed to respond, as indicated below [list each
8 party and whether the party has approved, disapproved, or failed to respond to the
9 document]:

10 ☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
11 order with the motion pursuant to LR 9014(g), and that no party has objected to the
12 form or content of the order.

13 Date: _____

14 _____
15 An Employee of Rick A. Yarnall
16 Chapter 13 Bankruptcy Trustee

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